

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA, STATES OF
CALIFORNIA, COLORADO, CONNECTICUT,
DELAWARE, FLORIDA, GEORGIA, HAWAII,
ILLINOIS, INDIANA, IOWA, LOUISIANA,
MICHIGAN, MINNESOTA, MONTANA,
NEVADA, NEW JERSEY, NEW MEXICO, NEW
YORK, NORTH CAROLINA, OKLAHOMA,
RHODE ISLAND, TENNESSEE, TEXAS,
VERMONT, AND WASHINGTON; THE
COMMONWEALTHS OF MASSACHUSETTS
AND VIRGINIA; and THE DISTRICT OF
COLUMBIA,

ex rel. ZACHARY SILBERSHER,

Plaintiffs,

vs.

JANSSEN BIOTECH, INC., JANSSEN
ONCOLOGY, INC., JANSSEN RESEARCH &
DEVELOPMENT, LLC, and JOHNSON &
JOHNSON,

Defendants.

Civil Action No. 19-12107 (KM)
(ESK)

Hon. Kevin McNulty, U.S.D.J.
Hon. Edward S. Kiel, U.S.M.J.

Document electronically filed

ORDER

THIS MATTER having been brought before the Court on the Parties' Joint Letter Regarding Discovery Disputes over Relator's Document Production dated and filed March 7, 2023 (ECF No. 238); the matter being heard on March 14, 2023 (ECF Nos. 241, 242); and the Court having considered the joint submission of the Parties, the parties' separate proposed orders (ECF Nos. 243, 244), the arguments made by counsel, and the agreement of the Parties,

IT IS, on this 10th day of April 2023,

ORDERED that Relator shall perform another search for all documents relating to his pre-filing investigation into the facts and claims alleged and pleaded in the complaints filed in this case. Relator shall produce all non-privileged information gathered or reviewed as part of that investigation, including material from third-party sources. Relator shall provide Defendants with a list of hyperlinks to public documents, if any, that Relator sent to counsel, consulting experts, or

any third-parties as part of his pre-filing investigation. Relator shall produce a privilege log identifying responsive documents withheld pursuant to an assertion of privilege. The Parties shall meet and confer to agree on a protocol for such a privilege log, consistent with the requirements for and limitations on discovery set forth in Federal Rule of Civil Procedure 26(b). Disclosures concerning correspondence with potential testifying experts shall be made at a later date during expert discovery; and it is further

ORDERED that Defendants' RFP No. 26 is denied, without prejudice, at this time based upon the assumption that Relator will not testify as a fact witness. Should Relator seek to offer himself as a testifying expert in this case, then Relator will make appropriate expert witness disclosures. At that time, Defendants will be entitled to seek discovery relating to Relator as appropriate for an expert witness; and it is further

ORDERED that any request by Relator to move for early summary judgment, as contemplated by the Parties' Joint Discovery Plan (ECF No. 213), shall be made by letter application to Judge McNulty seeking leave to file a motion for summary judgment on a specific issue and setting forth both Parties' positions; and it is further

ORDERED that Relator's request to extend the schedule by six months is denied without prejudice at this time; and it is further

ORDERED that an in-person status conference is set for **June 23, 2023 at 10:00 AM** before Magistrate Judge Edward S. Kiel. The Parties shall meet and confer to assess whether a reasonable extension of the discovery schedule is warranted prior to that conference.

/s/ Edward S. Kiel
HON. EDWARD S. KIEL, U.S.M.J.